UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

In re:	*	Case No. 17-50451
Denise Funderburke		
	*	Judge: HOFFMAN
Debtor(s)	*	CH 13

MOTION FOR DETERMINATION THAT LIENS ARE WHOLLY UNSECURED AND VOID

Debtor moves the Court, pursuant to 11 U.S.C. §§ 506, 1322(b)(2), 1325(a) and 1327(c), and F.R.B.P. 3012, 9013 and 914(b), for an order determining that the liens of Credit Acceptance Corporation and the Ohio Department of Taxation (hereinafter "Creditors") are wholly unsecured and void.

Memorandum In Support

1. Debtor petitioned for relief under Chapter 13 of the Bankruptcy Code on 1/27/2017 (the "Petition Date").

2. As of the Petition Date, the debtor was the owner of the real property located at 6637 Penrick Dr., Reynoldsburg, OH 43068 (hereinafter the "Property"), legally described as:

Lt/Un 334 HERBERT C HUBER PLAT NO 36 SEC 3 Pcl# 060-002277-00 Plt PB 30 PG 4-5.

3. The value of the Property and the debtor's interest in the Property as of the Petition Date, as set forth Appraisal filed with the Court (Doc. 8) was $85,000.00.

4. As of the Petition Date, the Property was subject to certain mortgages/liens recorded in the Franklin County Recorder's Office or the Franklin County Court of Common Pleas in the amounts specified and in the relative priority set forth below:

Lien Holder:	Lien Amount:	Recording or Cert. Date:	Reference Number:
Sun West Mortgage Company Inc.	$110,401.87	9/22/2015	201509220132854
Credit Acceptance Corporation	$1,908.56	4/19/2016	16-JG-012758
Ohio State Department of Taxation	$1,723.07	6/2/2016	16JG018392, 16JG018446, 16JG027626, 16JG027815, 16JG027817

5. Creditors' liens are wholly unsecured because there is insufficient value in the Property for Creditors' claims to attach due to the superior liens:

Value of Property:	$85,000.00
Total of mortgages/liens superior to Creditors' liens:	$110,401.87

6. The amount of the liens senior to Creditors' liens exceeds the value of the Property. As a result, there is no equity to which the Creditors' liens may attach, and the Creditors' liens are wholly unsecured and void under the combined effect of 11 U.S.C. §§ 506(a), 1322(b)(2), 1325(a) and 1327(c) and the terms of the Debtor's plan. *See Lane v. Western Interstate Bancorp.* (*In re Lane*), 280 F.3d 663 (6th Cir. 2002).

7. Unless otherwise ordered, the claims of the Creditors, if filed, shall be allowed and paid only as unsecured nonpriority claims and shall be treated under the Debtor's Chapter 13 Plan in the same manner as all other unsecured nonpriority claims.

8. Upon discharge under 11 U.S.C. § 1328, the liens of Creditors on the Property will be avoided. If the Creditors fail to timely release the liens, the debtor may submit an order granting this motion to the applicable clerk or recorder's office as evidence of the release of the Creditors' liens.

WHEREFORE, the debtor requests that the Court grant the Motion for Determination that Liens are Wholly Unsecured and Void.

Respectfully submitted,

/s/ Michael A. Cox
Michael A. Cox (0075218)
Guerrieri Cox & Associates
2500 N. High St., Ste 100
Columbus, OH 43202
(614) 267-2871, Fax (614) 267-2873
Counsel for Debtor(s)
cox@columbusdebtrelief.com

NOTICE OF MOTION

The debtor(s) has filed a Motion for Determination that Liens are Wholly Unsecured and Void.

Your rights may be affected. **You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.**

If you do not want the court to grant the relief sought in the motion, then on or before **twenty-one (21) days** from Saturday, May 06, 2017, the date of service, you must file with the court a response explaining your position by mailing your response by regular U.S. Mail to:

United States Bankruptcy Court
170 N. High Street
Columbus, OH 43215

OR your attorney must file a response using the court's ECF System.

If you mail your response to the court for filing, you must mail it early enough so the Court will **receive** it on or before the date stated above.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Motion for Determination that Liens are Wholly Unsecured and Void and the Notice of Motion were served upon parties in interest on **May 6, 2017**:

All ECF participants registered in this case were served electronically on the date of filing through the court's ECF System at the email address registered with the court.

And on the following parties by regular U.S. Mail (unless otherwise indicated):

Denise Funderburke
6637 Penrick Dr.
Reynoldsburg, OH 43068

Credit Acceptance Corporation
c/o Corporation Service Company
50 West Broad Street, Suite 1330
Columbus, OH 43215

Ohio State Department of Taxation
Bankruptcy Division
P.O. Box 530
Columbus, OH 43216-0530

Ohio Attorney General
Collections Enforcement, Attn: Bankruptcy
150 E. Gay St., 21st Floor
Columbus, OH 43215

Credit Acceptance Corporation
25505 W. Twelve Mile Rd., Ste. 300
Southfield MI 48034

/s/ Michael A. Cox
Michael A. Cox (0075218)